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DEPARTMENT OF COMMERCE

International Trade Administration

C-533-882

Large Diameter Welded Pipe from India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers/exporters of large diameter welded pipe welded pipe from India.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Robert Palmer at (202) 482-9068 or Suzanne Lam at (202) 482-0783, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 2018, Commerce published in the *Federal Register* its affirmative *Preliminary Determination* of this countervailing duty (CVD) investigation and invited interested parties to comment.<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by

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<sup>1</sup> See *Large Diameter Welded Pipe from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30690 (June 29, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

parties for this final determination, may be found in the Issues and Decision Memorandum issued concurrently with this notice.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation is January 1, 2017, through December 31, 2017.

#### Scope of the Investigation

The product covered by this investigation is large diameter welded pipe from India. For a full description of the scope of this investigation, *see* the "Scope of the Investigation" in Appendix I of this notice.

#### Scope Comments

During the course of this investigation and the concurrent LTFV investigations of large diameter welded pipe from Canada, Greece, Korea, the People's Republic of China (China) and Turkey, and the concurrent countervailing duty investigations of large diameter welded pipe from China, India, Korea and Turkey, Commerce received scope comments from interested

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<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Large Diameter Welded Pipe from India" (Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

parties. Commerce issued a Preliminary Scope Decision Memorandum<sup>3</sup> to address these comments. In the *Preliminary Determination*, Commerce set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.<sup>4</sup> No interested parties submitted scope comments in scope case or scope rebuttal briefs. Therefore, for this final determination, the scope of this investigation remains unchanged from that published in the *Preliminary Determination*.

#### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

#### Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>5</sup> For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making these findings, Commerce relied, in part, on facts otherwise available and, because it finds that both respondents and the Government of India did not act to the best of their

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<sup>3</sup> See Memorandum, “Scope Comments Decision Memorandum for the Preliminary Determinations,” dated June 19, 2018 (Preliminary Scope Decision Memorandum).

<sup>4</sup> See *Large Diameter Welded Pipe from India: Preliminary Determination of Sales at Less Than Fair Value*, 83 FR 43653 (August 27, 2018).

<sup>5</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>6</sup> For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Issues and Decision Memorandum.

#### Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated. In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as rates based entirely on facts otherwise available. Section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rate established for all exporters and producers individually investigated are zero, *de minimis*, or determined entirely in accordance with section 776 of the Act, Commerce may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the estimated countervailable subsidy rate calculated for the investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we have used the rate assigned to Bhushan Steel and

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<sup>6</sup> See sections 776(a),(b), and 782(d) of the Act.

Welspun Trading Limited as the all-others rate. This method is consistent with the Department's past practice.<sup>7</sup>

Commerce determines that the following estimated countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate</b>
Bhushan Steel	541.15 percent
Welspun Trading Limited	541.15 percent
All-Others	541.15 percent

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after October 27, 2018, but to continue the suspension of liquidation of all entries from June 29, 2018, through October 26, 2018.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that

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<sup>7</sup> See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 82 FR 8507, 8508 (January 26, 2017).

material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### Disclosure

Normally, Commerce discloses calculations performed for a final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, Commerce applied AFA in determining the estimated countervailable subsidy rate for the individually examined companies (Bhushan Steel and Welspun Trading Limited) in this investigation, in accordance with section 776 of the Act. Because our calculation of the AFA subsidy rate is outlined in Appendix I of the Preliminary Decision Memorandum, and because we made no changes to the *Preliminary Determination*, there are no further calculations to disclose.

#### International Trade Commission Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. Because Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United

States is materially injured, or threatened with material injury, by reason of imports of large diameter welded pipe from India no later than 45 days after this final determination.

#### Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: November 1, 2018

Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.



## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Analysis of Programs
- V. Analysis of Comments
  - Comment 1: Whether Commerce Properly Applied AFA in the Preliminary Determination.
  - Comment 2: Whether Commerce Should Continue to Find the AAP, DDB, EPCG, and MEIS Programs Countervailable.
- VI. Conclusion

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